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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,353	09/08/2003	Michael R.S. Hill	P-9097 (2620/17-2)	1650

7590 04/10/2007
JEFFREY J. HOHENSHELL
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EXAMINER

OROPEZA, FRANCES P

ART UNIT	PAPER NUMBER
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3766

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/657,353	Applicant(s) HILL ET AL.	
	Examiner Frances P. Oropeza	Art Unit 3766	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/25/07 (Response).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/25/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response

1. The Applicant at least amended independent claim 1 in the response filed 1/25/07, hence the rejection of record is withdrawn and a new rejection established in the subsequent paragraph.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 1, the Examiner is unable to find "directly" in the instant specification. New matter may not be added at this point in the examination process. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. Claims 1-4 and 6-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Duhaylongsod (US 6414018). Duhaylongsod teaches a method of performing a medical

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procedure comprising stimulating a vagal nerve to adjust to a first condition (asystole), delivering a first vasoactive substance (a beta-blocker, a cholinergic agent, nitroglycerine), performing a procedure (a coronary procedure/ coronary bypass procedure), and delivering a second vasoactive substance (a beta-blocker, a cholinergic agent, nitroglycerine, atropine) OR stimulating the heart to attain a second condition (using an electrical pacing system), and delivering a second vasoactive substance (a beta-blocker, a cholinergic agent, nitroglycerine, atropine) (abstract; col. 5 @ 27-46; col. 6 @ 44-50; col. 7 @ 24-34; col. 11 @ 13-35; col. 12 @ 18-24; col. 13 @ 32-39; col. 16 @ 38-43; col. 18 @ 10-12).

As to claim 1 and the delivery of the substances to a targeted vessel, Duhaylongsod teaches delivery of pharmacological substances to targeted vessels (col. 6 @ 25-30; col. 18 @ 22-27).

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duhaylongsod (US 6414018) in view of Maroko (US 5153178). As discussed in paragraph 6 of this action, Duhaylongsod discloses the claimed invention except for the second substance being a vasoconstrictor, specifically epinephrine.

Marok teaches improving circulation performance using the vasoconstrictor epinephrine for the purpose of increasing the contractibility of the mammalian heart. It would have been obvious to one having ordinary skill in the art at the time of the invention to have used the vasoconstrictor epinephrine in the Duhaylongsod system in order to provide an alternate means to controls the heart using a pharmacological agent that improves cardiac performance (abstract; col. 1 @ 19-30; col. 23 @ 13-29; col. 34 @ 33-41).

Specification

6. The amendment filed 1/25/07 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: In claim 1, the word "directly".

The Applicant is required to cancel the new matter in the reply to this Office Action.

Statutory Basis

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Conclusion

The Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fran Oropeza whose telephone number is (571) 272-4953. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl H. Layno can be reached on (571) 272-4949. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communication and for After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Carl H. Layno
CARL LAYNO
PRIMARY EXAMINER
ACTING SPE, AU 3766

Frances P. Oropeza
Patent Examiner
Art Unit 3766

FPO
4/5/07